Supreme Court, U.S.
FILED

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CASE NO: 01-16250

IN THE SUPREME COURT OF THE UNITED STATES

PEPI SCHAFLER

Petitioner

v

RICHARD J. SPEAR

Respondent

On Petition for a Writ of Certiorari
to the Ninth Circuit Court of Appeals

APPENDIX

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65 pp

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DD 1: Denial of Rehearing en banc

United States Court of Appeals for the Ninth Circuit

Pepi Schafler
Appellant

v

Richard Spear
Appellee

Case No: 02-16695
01-17516
01-16250
01-16270

ORDER

Before: RYMER, KLEINFELD, And PAEZ, Circuit Judges.

The panel has voted to deny the petition for rehearing en banc. The full court has been advised of the petition for rehearing en banc, and no judge of the court has requested a vote on the petition for rehearing en banc. Fed R. App. P 35(b) The petition for rehearing en banc is denied.

Filed May 19, 2003

DD 2: ORDER NINTH CIRCUIT COURT OF APPEALS

THIS IS NOT FOR PUBLICATION

United States Court of Appeals for the Ninth Circuit

Pepi Schafler
Appelant
v
Richard Spear
Appellee

Case No: 01 -16250
01-16270
01-17516
02-16695

MEMORANDUM *

Appeal from the United states District Court for the Northern District of California , Maxine Chesney , District Judge Presiding

Submitted March 13, 2003 . This panel unanimously finds this case suitable for decision without oral argumentSee Fed R. App. P 34(a)(2)
Before: RYMER, KLEINFELD , AND PAEZ

Schafler appeal the District Court decision upholding summary judgment granted against her and in favor of the trustee, by the United States Bankruptcy Court of the Northern District of california. We review the grant of summary judgment de novo. In re Stanton, 303 F 3rd 939, 941 (9th Circ 2002). Schafler also appeals a decision by the bankruptcy Appellate Panel , affirming the Bankruptcy Court's order denying Schafler's claim for an administrative expense claim for abuse of discretion. In re Hanna ,168 , B.R. 386 388, (9th Cir. BAP 1994 Assets held by the Max Family Living Trust as of march 26, 1996, were prpoperly determined by the bankruptcy court to be property of the bankruptcy estate. Al property held by a debtor at the commencement of a chapter 7 proceeding is part of the bankruptcy estate unless it is excluded by 11 USC # 541 (b) . The record indicates that Appellant had access to both the net income and the principal of the trust and used the assets of the trust to her benefit. Thus the trust was not subject to exclusion from the bankruptcy estate. The assets that remained in the trust at the initial closure of appellant's case on July 5, 1996, were not technically abandoned to the Appellant as a result of their not having been administered by the trustee.

DD 2, pg 2

11 USC #554 permits abandonment of peoperty scheduled under section #521 (1) of this title. Appellant did not properly schedule the assets in question. although she did list the excistence of the trust on her chapter 7 petition, she omitted her interest in the trust and listed it's value as only one dollar. * This does not constitute proper scheduling of the assets sufficient to permit a technical abandonment upon closure of the case. Nor did the disclosure on the bankruptcy schedule provide the trustee with constructive notice of the assets of the trust. The District Court properly held that the trustees's duty to administer assets of the bankruptcy estate does not extend so far as to require the trusteeto uncover assets intentionally concealed by the debtor. Even were we to hold otherwise , the bankruptcy court court would be within it's discretion to revoke the technical abandonment in a situation such as this , where the trustee was given false information about an assets or the assets was not listed at all. See Cusano v Klein 264 F 3rd 936(9th Cir, 2001), In Re DeVore 223 B.R. 193(9th Cir BAP 1998). Next Appellant challenges the bankruptcy court's denial of the administrative expense claim she submitted to recover some $43.000 in expenses incurred regarding the Florida condominium . She argues that the administrative expense claim should have been approved , and that the bankruptcy judge violated her due process rights by "prejudging" the issue and by failing to hold a separate hearing .Under 11 USC #503 (b)(1) (A) an administrative expense claim can be submitted to recover "the actual necessary costs and expenses of preserving the estate".In re Dak Industries Inc, 66 F3rd 1091, 1094 (9th Cir 1995) . In order to make out a valid administrative expense claim , a claimant must show among other things that the expense "directly and substantially benefitted the estate " Here the bankruptcy court did not abuse it's discretion in determining that the money spent by Appellant in maintaining a condominium that she was concealing from the estate for her personal benefit did directly and substantially benefit the estate . Meanwhile , Appellant's challenge to ther bankruptcy judge's alleged prejudgement of the administrative expense claim lacks merit because she has not overcome the presumption of honesty and integrity on the part of the decision maker.

Affirmed

ERRATA. In the corpus of the petition for the writ of certiorari there is an eror : it now reads the 50 word decision by the Court of Appeals.It should read a 350 word decision.

* The Court misread and therefore misstated this it reads: petitioner's interest one dollar and not the trust value as one dolaar. See Appendix 1.

DD 2, pg 3

Schafler appeals the decision of the District court upholding the bankruptcy court's denial of her claim that some some of her assets comprise an individual retirement account and should be exempt from thebankruptcy estate. We review de novo the question of whether Schafler is entiled to an exemption. Coughlin v Cataldo (In re Cataldo) 224 B.R. 426, 428 (9th cir. BAP) with the exception of findings by the bankruptcy court that Schafler acted in bad faith which we review for clear error. Arnold v Gill (In re Arnold) 252 B.R. 778, 784 (9th Cir BAP 2000). Schafler does not establish that the asset in question qualifies as an exempt account under Seetion 11-504 (h) of the Courts and Judicial Proceedings Article of the Code of maryland. This statute requires that the account meet the requirements of "#401(a), #403 (a) #403 (b) #408, # 408 A, #414 (d), or #414 (e) of the United States Iternal Revenue Code of 1986 , as amended or #409(as in effect prior to January 1984) of the United States Internl Revenue Code of 954, as amended. " Schafler does not argue ,(1)and the record does not indicate , that the account for which she claims an exemption satisfies these requirements.(2)The exemption was properly denied The bankruptcy court's denial of Schafler's motion for an exemption did not deny her due process of law simply because it did not occur at a separately scheduled hearing.(3) the bankruptcy court(4) chose to adress the matter during a hearing on a related (5)matter , after both parties had fully briefed the exemption issue, and gave both parties an opportunity to present oral argument. (6)Schafler argues thqt this was done in violation of bankruptcy local rule 9014 for the Northern District of California , but does demonstrate any prejudice that resulted.(7)Absent a demonstration of prejudice , any eror in this respect is not reversible error . Houston v Bryan 725 F 2nd 516, 518 (9th Cir 1984)

The decision of the District Court is affirmed.

1. She tried. Schafler was denied the opportunity to argue
2. Yes it does, the evidence is overwhelming .
3. The core and minstay of procedural due process is notice and a hearing.
4. A court is supposed to guarantee due process not intentionally violate it.
5. The related matter is that at that hearing of April 25, 2001 jude Newsome ordered all petitioner's securities sold, and the money given to davis, and Spear "as intetim fees" fees for getting themseklves fees. that was the "related " mater. If petitioner would have received her IRA, than there is no money to steal on behalf of Davis and Spear.
6. Counsel argued vigorously that this is improper because it violates the rules, and due process, and judge Newsome made sarcastic comments; counsel also told judge Newsome that he was not prepared for oral argumet without notice of same. He was ignored. Newsome argues on behalf of Davis and Spear 100% of the time and he did so again.
7. This is an odd holding by the Court of Appeals essentially saying, even with notice and a hearing, -the decision had already been made.

DD 3 Re: ORAL ARGUMENT F.R.A.P. #34

United States Court of Appeals for the Ninth Cicuit.

Locations of hearing for March calendar

Date: January 27, 2003

United States Court of Appeals -9th Circuit
95 Seventh Street
San Francisco, California

Thursday March 13, at 9.00 a.m Courtroom 3

* 02-16695 Schafler v Spear
  01-16250 Schafler v Spear
  01-16270 Schafler v Spear
  01-17516 Schafler v Spear

* 10 min per side

ORDER February 21, 2003.

The Court is of the unanimous opinion that the facts and legal arguments are adequately presented in the briefs and record , and the decisional process would not be significantly aided by oral argument. Therefore this matter is ordered submitted on the briefs and recor without oral argument on March 13, 2003 in San Francisco California . Fed R. App. P 34 (a)(2).

ORDER February 28, 2003.

Appellant's motion to restore case to argument calendar is DENIED.

For the Court

ss: Howard Hom , Deputy Clerk,
for Cathy Catterson, Clerk of the Court.

DD. 4 -Appeal number 01-17516 on appeal
Re: the entitled to administrative fee

DD 4 pg 1 **On Appeal from the Bankruptcy Appelate Panel**

Not for publication
Before: Ryan, Klein and Russel bankruptcy court judges

After Pepi Schafler filed a chapter 7 petition, her discharge was entered and the case closed. Later her case was reopened , the bankruptcy to allow the chapter 7 trustee to administer unscheduled assets.Debtor then filed a motion for the allowance of administrarive expenses in connection with an unscheduled Florida Condominium.After a hearing the bankruptcy court entered an order denying the motion and Schafler timely appealed.We affirm
Facts; In 1986 the Max Family Trust was established and Schafler served as trustee and as a beneficiary of the revocable trust. Later the trust was recharacterized as an irrevocable trust. However , Schafler maintained the ability to borrow money from the trust, provided that she documents the loan. On December 21, 1995 Schafler transferred title to the condominium to the trust. On March 26, 1996, she filed a chapter 7 petition in US. Bankruptcy court for the District of Maryland. At the time of the petition , Schafler did not schedule any interest in the condominium, nor did she reveal that she transferred the condominium to the trust four months earlier. She however scheduled her interest in the trust valuing it at one dollar.At the 341 meeting , debtor indicated that she had not transferred any property. Based upon debtor's schedules, and her testimony at the 341 meeting the chapter 7 trustee filed a no assets report. On July 5, 1996 there was a discharge and the case was closed. At some point debtor's ex husband told the chapter 7 trustee that debtor had concealed assets. The chapter 7 trustee then moved to reopen the case which the bankruptcy court approved. Later Schafler moved from Maryland to the Northern District of California and "Richard Spear " was appointed "trustee" to administer denbtor's assets. On May 7 , trustee filed an adversary proceeding seeking in part declaratory relief that the trust was property of the estate., or alternatively avoidance of the transfer of the condomonium to the trust. Later , trustee and debtor filed motions for summary judgment ,and the court granted the trustee's

DD 4 pg 2

motion for summary judgment , holding that the trust pproperty of the estate. In reaching that conslusion , the bankruptcy court found that the debtor had intentionally concealled assets, including the condominium. On March 28, 2001 , Schafler filed the motion. Through the motion she sought reimbursement for expenses of maintaining the condominium allegedly for the estate.*
Debtor contended that despite the bankruptcy court's earlier findings that debtor had concealed the condominium , she was entitled to an administrative expense claim because she maintained it , which the bankruptcy court ultimately determined to be property of the estate.After trustee objected to the motion , the bankruptcy court held a hearing on the matter**. at the hearing , the court stated that it was applying the law of the case doctrine *** and therefore , it found that based upon the judgment debtor had intentionally concealed the condominium . The bankruptcy court then stated that as a matter of law, that a debtor that intentionally concealed propery was not entitled to an administrative expense for maintaining that property .However , the bankruptcy court offered her an opportunity to further research the law in order to change the court's view. The court directed debtor's counsel to find a case on point authorizing the reuested relief. **** Debtor's counsel performed further reserach and advised the court that he had not found a case on point. On May 14, 2001 a request was filed for the motion to be submitted on the pleadings*****. the order was entered and subsequently appealed.

*The Appellate Panel so misstated , misapplied and obsessively distorted the facts, as to make them applicable to a fictional case. It would take 10 pages of text to disprove them all. The documents are there for this Honorable Court to examine. Panel's facts must have been generated by the opponents and utiized by the appellate panel to support it's intent. The documents are the best evidenceof how inaccurate these "facts are"

**There was no hearing about this matter. There was a hearing on April 25, 2001 regarding the criminal plunder of petitioner's assets called "interim fees". As usual judge Newsome came in and said " I have decided the administrative fee issue" This was not uncommon for petitione, but uncommon for counsel, a respected attorney and appelate specialist. What followed was Newsome representing his cronies, and arguing with counsel. The opponennt were silent, and as usual were represented by Newsome. The transcript would be the best evidence.

*** Newsome ccreated the law of the case, and created estoppel for his own opinion.

****This whole sequence is false. When counsel argued with Newsome about this matter not being scheduled, and petitioner's rights, and Rule 9014-1 a right to notice and a hearing, he finally agreed to a hearing on the matter for May 16. , 2001,. But ignoble and disingenuous as he is he enterred the order denying the fee a day or two after this "confrontation". the issue was moot.

DD4 pg 3

ISSUES.

A. Whether the bankruptcy court violated debtor's due process rights *

B. Whether the bankruptcy court ered in denying the motion.

Standard of review.

We review whwther the bankruptcy court violated an individual's right to due process de novo. See Duff v. United States Trustee (In re Cal Fid Inc.) 198 B.R. 567, 571 (9th Cir BAP 1996) (citation omitted)

We review the denial of an admisnistrative expense under #503 (b) (1) for an abuse of discretion. See Gull Indfus. Inc v John Mitchell, Inc (In re Hanna) 168 B.R. 386, 388 (9th Cir BAP 1994). A bankruptcy court abuses it's discretion if it basesit's rulling upon an erroneous view of the law , or a clearly erroneous interpretation of the facts. See Cotter & Gell v Hartmarx Corp., 496 U.S. 384, 405 (1990). A bankruptcy court also abuses it's discretion if the Panel is left with a "definite and firm conviction (that) the court below commotted a clear error of judgment in the conclusion it reached. ..." Beatty v Traub (In re Beatty), 162 B.R. 853 , 855 (9th Cir . BAP 1994) (citations ommitted) We review the bankruptcy court's finding of fact for clear error. See Massoud v Ernie Goldberger & Co (In re Massoud), 248 B.R. 160 , 162-63 (9th Cir. BAP 2000). "" A finding is clearly erroneous when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistaake has been committed " Id at 163 (internal quotation marks, emphasis , and citation omitted.) We review the applicability of collateral estoppel de novo. See Harmon v Kobrin (In re Harmon) 250 F 3rd 1240, 1245 (9th Cir 2001). Similarly , we review the applicability of the law of the case doctrine de novo. See Am. Express Travel related Servs. C(Inc v Fraschilla (In re Fraschilla)235 B.r. 449, 453 (9th Cir BAP 1999) .**

DISCUSSION

Te bankruptcy court did not violate debtor's due process rights.

The bankruptcy court held a hearing on the motion before the time the debtor had scheduled the motion to be heard , because she had not yet filed a notice of hearing wth the bankruptcy court. At the hearing , the bannkruptcy court expressed it's view that debtor ws not entiled to an administartive expense.

*In the disjointed and trunkated decision by the 9th Circuit Court of Appeals (App. DD2) the Appellate Panel held that it is not addressing petitioner's claims to Constituional due process violations, because they were not raised in the lower courts. Wrong, wrong , wrong.

** The BAP has cited all it's own decisions as determinative when the law of the case is the law of the State of Maryland. The BAP citing it's own decisons brings to mind the word "product placement" or advertising.

BEST AVAILABLE COPY

DD4, pg 4

On appeal debtor contends that the bankruptcy court violated her right to due process because it was biased against her and it prejudged her claim to an administrative expense.* . We disagree. The Fifth Amendment holds in pertinent part that "no person shall be ... deprived of life , liberty or property , without due process of law. ..." US Const. Amend. V. It is well settled that the Due Process clause of the Fifth Amendment protects an individual's right to a trial before an impartial tribunal. See Tumey v Ohio, 273 U.S 510 , 523 (1926).In determining whetehr judiscial bias exists , the test under the Fifth and Fourteenth Amendment 's due process clauses are the same. IdAn individual asserting judicial bias has the burden of overcoming **"a presumption of honesty and integrity on the part of the bankruptcy court. Withrow v Larkin , 421 U.S. 35, 47 (1975)

> There are two ways in which a plaintiff may establish that he has been denied his constituional right to a fair hearing before an impartial tribunal . I some cases , the proceedings and surrounding circumstances may demonstrate actual bias, on the part of the adjudicator. In other cases , the adjudicator 's pecuniary or personal interest in the outcome of the proceedings may create an appearance of partiality that violates due process even without ny showing of actual bias.*** Stivers v Pierce, 71 F 3rd 732, 741 (9th Cir 1997) (citation ommitted.)

The BAP made two comments : 1. That Stivers decided under the Fourteenth Ammendment, it d aspplicable here, because the test is the same. 2. The court also cites the holding of the Fourteenth Amendment.In Stivers ****the plaintiff alleged that his license application was prejudged and that he was denied a hearing before an impartial tribunal. See Stivers , .71 f. 3rd at 738. The plaintiff had applied for various licences , including a private investigator's license, because he wanted to buy a private investigation and security company. Id State law requiires that such applications be approved by a board comprised of industry members

* bankruptcy court judge Newsome prejudged every thing about the case.Even he would agree that he is biased against petitioner.

** The first time petitioner encountered him , he told her that he plans to take her assets and give them to Spear and Davis. At the hearing on April 25, 2001 the hearing at issue he told counsel that he had told petitioner that the first day he encountered her.

***Petitioner overcame the"presumption of honesty and integrity of the bankruptcy court" a long time ago,

**** With due respect for the BAP ,this is a very long wordy decision which in addition to repeteadly misstating the facts, is not referring to the documents provided, and the transcript and the briefs. It is reminiscent of college term papers where the volume of words has to serve as a diversion for lack of substance.

DD 4, pg 5.

While working for another company , the plaintiff had successfully taken business away from one of the board members .This same board member would have been a competitorof the plaintiff if the license had been granted. Additionally , this same board member had previously vowed to put the company that plaintiff was aquiring out of business. Moreover this same board member made derogatory comments about the plaintiff during the pendency of the application that showed that he harbored an "extremely negative, biased attitude to ward Mr. Stivers (the plaintiff) During the licensing process , the board treated the plaintiff diferently than most other applicants. Id.738-39. In denying the application , the board specifically relied on a report of one of it's own investigators, who later admitted that his report contained "several incomplete, inaccurate and misleading statements". This same investigator also spread false rumors about the plaintiff's business during the application process. In finding the existence of bias in the tribunal , the Ninth Circuit relied on a totality of the circumstances test. The Ninths Circuit specifically indicated that any one of these factors alone would would probably not be sufficient to find bias However , taking all the circumstances together, the board was biased against the Plaintiff. Here the debtor does not argue that the bankruptcy court was actually biased against her. *Instead , debtor argues that the circumstances surrounding the hearing on the motion show that the bankruptcy court had predetermined how it would rule on the motion. Specifically , debtor contends that the following statement by the bankruptcy court indicates that it had already decided how it would rule. . Go back and look and look at the law to grant and unless you find a case that states the proposition that you have indicated , it is almost a certainty that I am not going to grant your motion for an administrative claim. ** The bankruptcy court did not violate debtor's due process rights as alleged by debtor when it ruled on the motion.

The bankruptcy court did not err in denying the motion

The bankruptcy court denied the motion becuse debtor failed to disclose the condominium in her schedules. On appeal debtor contends that the bankruptcy court erred because the plain language of #503 (b) (1) does not *** preclude her from receiving administrative expense for costs incurred in preserving the condominium for the estate. We disagree.

* among ridiculous points made in the long irelevant decision is that petititoner did not assert bias. At every corner, at every opportunity, in the brief in the reply, in letters. too silly to even comment about. Petitioner considers newsome a depraved predator.

** judge Newsome was quite abusive to counsel because " he had decided this matter." There are numerous complaints to the judicial Council about Newsome doig that

***The reason he denied the administrative fee, is because he promised the cronies all of petitioner's money.

DD4, pg 6

For an expenditure to qualify as an administrative expense , it must be incurred for the benefit of the estate. See Burlington N.R.R. Cov Dant & Russell Inc,853 F 2nd 700, 706 (9th Cir 1988) .This means that the expenditures must directly and palpably benefit creditors. The mere possibility of creating such a benefit is not sufficient. In Hanna ,we established a three-part test that a claimant must satisfy before an administrative claim will be granted See Hanna 168 B.R. at 388 .First the claimant must show that the expense was incurred post petition . Second the claimant must show a direct and substantial benefit to the estate; third the claimant must show that expenditure was actually necessary. Debtor satisfies the first and third prong of test but cannot satisfy the second. The law of the case doctrine * prevents a court from revisiting issues that it had previously decided In order for the law of the case doctrine to apply , the issue in question must have been decided either expressly or by necessary implication in the previous disposition. Thomas v Bible 983 F 2nd 152 (9th Cir 1993) Bankruptcy proceedings are somewhat unique , and the Ninth Circuit recognizes that "in litigation involving a bankrupt , a decision in one proceeding does not necessarily prevent the institution of a new proceeding involving the same issues. Greiner v Wilke (In re Staff Mortgage and Inv Corp.), 625 F 2nd 281, 283 (9th Cir 1980). Here the judgment is on appeal to the Ninth Circuit , but if all parties expected the motion to be governed by the cross motion and the judgment , they were in error. In the motion debtor stated that she was moving for an order allowing and directing payment of the net expenses of preserving the condominium for the estate. Even if the law of the case doctrine did not apply, our conclusion would be the same. At the hearing on the motion **the bankruptcy court determined the debtor did not reveal it's existence to trustee or her creditors.

* The law of the case is the law of the State of Maryland

** There was no hearing. Newsome made the decision ex parte or with the cronies and came to work to read it.

DD 4 , pg 7

In reaching that conclusion , the bankruptcy court noted that the condominium had not been listed in debtor's schedules (2), and the trust had been listed as having a value of one dollar.(3)

Charles Dell'Ario , counsel for petitioner:

"Your Honor , I'll go back to my original premise which is that we have to look at whether there was concealment during the time between March 1996 and July 1996.Now this property(the condominium) was scheduled .Surely we know your ruling that it was scheduled ----

Newsome: No it wasn't scheduled (4)

Dell'Ario: It was scheduled

Newsome: It wasn't scheduled at all

Dell'Ario The trust was scheduled. It was part of ----

Newsome: as being -yes as, being one dollar.(5)

Tr. of proceedings (Apr 25, 2001) at 8-9

Debtor concealed the condominium , and we cannot say that this finding was clearly erroneous. Here from the date of the petition, debtor had unfettered use of the condominium (6)Debtor rented the condominium from time to time and she retained the proceeds for her personal use.(7)She also lived in the condominium (8)

The preservation of the condominium was for her personal use, and not for the benefit of the creditors . as such the second prong of the Hanna can not be satisfied. Therefore the bankruptcy court did not err, in denying the motion.

Conclusion

In sum , the bankruptcy court did not violate debtor's due process rights . Similarly the bankruptcy court did not err in denying the motion.

(2) false condominium was scheduled with the trust as being in petitioner's possession

(3) false. It was not listed as having the value of o1 dollar. petitioner's interest was listed as being one dollar.

(4) False . it was scheduled

(5) False. see note three

(6) had to pay "unfettered expenses"

(7) she had to pay all the expenses; who should have received the rental fees?

(8) False and pure invention by the District Court. Petitioner had never lived there.

(9) Newsome practices law all the time. Arguments are not between two lawyers, but between Newsome and whom ever. Davis and of course Spear are always silent.

DD 5. DISTRICT COURT ORDER AFFIRMING DENIAL OF EXEMPTION

Judge Maxine M Chesney **Dated August 13, 2002***

Background.

On December 18, 2000 the bankruptcy court granted trustee's cross motion for summary judgment , holding that debtor had concealed her in terest in certain assets. A notice of appeal was filed from the resulting judgment. This Court affirmed the judgment on June 12, 2001. On February 14, 2001 while the appeal from the judgment was pending before this Court, debtor filed in the bankruptcy court an Amended Schedule C in which she claimed that an Individual Retirement Account (IRA) was exempt from the bankrupcty estate. On February 23 2001 trustee in response to the amendmrnt , filed a notice of objection to the Claim of Exemption arguing inter alia, that the exemption should be denied because debtor was seeking an exemption in proerty which she never declared as an asset. Debtor's counsel filed an objection to trustee's objuection to Claim of Exemption , arguing therein that trustee's objection was not properly filed under the Federal and Local Rules of bankruptcy procedure(1)(Docket No 187) On March 9, 2001 , trustee filed s motion for Order approving sale of personal property, in which he sought permission to to sell the stock cettificates , that the bankruptcy court had previously determined were the assets of the bankruptcy estate.(2)(Docket No 181)Debtor's counsel filed an opposition to that motion arguing inter alia that some of the stock certificates were subject to the exemption she had claimed in her Amendd Schedule C, and that the motion should be denied until the bankruptcy court "resolved" any "argument the trustee advanced to save his defective objection".(3)(Docket No 194 at 2-3)In reply trustee arguedthat the claim of exemption was precluded because she had fraudulently concealed the assets being claimed as exempt, and that the objection was not defective. (Docket No 202). (4) . On April 25, 2002 the bankruptcy court conducted a hearing to consider trustees motion (Docket No 222) The bankruptcy court, the ignoble judge Newsome granted the motion, sustaining trustee's objection to the claim of exemption on the ground that she had fraudulently concealed the assets that she now claimed as exempt. (5).

(1) many of the "background facts are inaccurate, and imprecise"

(2) The stock certificates were mostly petitioner's Retirement Fund.

(3) In the bankruptcy court with the ignoble Newsome,Davis and Spear do not have to cure anything. they rule in taht court.

(4) In Re Boyd 243 B.R. 756 (9th Cir. ND CAl. 2000) a deffective objection by Davis was changed by him into an outrageous fraud on the court and the opponent, a direction by Judge Breyer that davis not practice law. It is different with Cronies like Newsome.

(5) There is no exception to the Maryland Statute on exemptions from judgment even if the claimant were in prison. Newsome created his own forfeiture law.This was an illegal act of a bill of attainder by Newsome.

DD 5, pg 2. The bankruptcy court also held that trustees objection was timely and in substantial compliance with the bankruptcy rules. The bankruptcy court's oral rulings were memorialized in a minute orderentered on the docket on April 27, 2001 . (docket no: 207.After the hearing the bankruptcy court further memorialized it's oral rulings by issuing on April 25, 2001, and order approving trustees sale of personal property (stock certificates), (docket no 208) and on May 17, 2001 an order denying debtor's claim of exemption for her IRA. (In footnote 3, Judge Chesney notes that the copy of the order denying the claim of exemption in IRA provided to this courtin the record on appeal is not signed . It is undisputed however , that a written order consistent with the bankruptcy court's oral ruling was filed on May 17, 2001 to be found in Appellee's brief.)
On May 3, 2001 Schafler filed a notice of appeal , amended on May 7, 2001 In her amended notice of appeal , Schafler appeals from each of the several orders announced in open courton April 25, 2001, and entered on the docket on April 27, 2001 of the bankruptcy case insofar as said orders are adverse to her. (docket 220).

Standard of Review.

A bankruptcy court's conclusions of law are reviewed de novo. See Ardmor Vending Co v Kim (in re Kim, 130 F 3rd 863 , 865 (9th Cir 1997). A debtor's entilement to a bankruptcy exemption is a question of law. (1) See Matter of Yonikus, 996 (f2nd 866, 868 (7th Cir 1993). Whether a party has properly filed an objectionis a question of law. See Spenler v Siegel (In re Spenle 212 B.R. 625, 628, (9th Cir. BAP 1997)

Discussion and Jurisdiction.

Both parties agree that after debtyor filed the instant appeal the trustee sold the securities in accordance with the bankruptcy court order of April 25, 2001. Schafler concedees that her appeal from the order approving the sale, is moot. Neither party contends that Debtor's appeal from the order denying the claim of exemption is moot.**In a footnote the District Court notes that the bankruptcy court observed at the hearing , that if the exemption order is reversed petitioner will be reimbursed for the value of the property found to be exempt. (docket 220)** (2)

(1) Exemption is a questio of law. What and whose law? State law? bankruptcy law? the ignoble Njudge Newsome's law? The present case is covered by State of Maryland law.

(2) Bankruptcy court judge Newsome is a corrupt liar who covers up his misconduct ; he ordered petitioner's securities sold, about $400.000 worth, and gave it all to Spear, Davis and the burglar as "fees" and calls this the "estate". Whether he personally benefits or how pettioner does not know. But giving Davis more tha one quarter million dollars fees is a criminal act He awarded them fees for bounty hunting and getting themselves fees. Newsome should be in prison. No one other than these cronies has received a dime from this estate.

DD 5, pg 3

Trustee argues that the Court lacks jurisdiction to review that order. According to trustee, because Schafler filed her amended notice of appeal on May 7, 2001 ten days before the bankruptcy court filed it's written order denying the claimed exemption , an appeal from the order denying the claim exemption "is not properly before this court. Rule 8002 (a) of the Federal Rules of Bankruptcy Procedure provides : " anotice of appeal filed after the announcement of a decision or or order but before entry of judgment, order or decree shall be treated as filed after such entry and on the daythereof. Here , debtor filed her notice of appeal after the bankruptcy court court announced it's decision, denying debtor's claim of exemptionbut befgore the written order was issued. Under Rule 9002(a) the notice of appeal is treated as filed on May 17, 2001 , the day the written order was entered.Consequently the appeal is not premature, and the court has jurisdiction.to consider the appeal from the order denying the exemtion.

Merits of appeal.

Debtor argues that trustee's objection to the claim of exemption was not properly filed and noticed , under the Federal and local Rules of Bankruptcy Procedure, and that the bankruptcy court's consideration of the allegedly defective objection deprived her of due process. The Federal Rules provide that an objection to a claim must be filed within 30 days after the meeting of creditors held under #341 (a) is concluded or within 30 days after any amendment to the list of of property claimed to be exempt or suplemental schedules is filed , whichever is later. See Fed. R. Bankr. P 4003 (b) .Here , trustee's objection , which included the argument that the claim of exemption was impproper because debtor had not disclosed the subject "properly" , was filed within 30 days of debtor's filing of her amended schedules C(the meeting of creditors was held on May 1, 1996). Consequently the objection was properly filed under the Federal rules.

The Local Rules provide that an ojection to alaim of exemption "shal be set for an actual heating . See B.L.R. 9014-1 (b)(1)(F).Debtor argues that because trustee did not notice the objection for a hearing , the bankruptcy court erred by considering the objection at the hearing scheduled for determination of the motion to approve the sale . Noncompliance with a local rule, however "is not by itself reversible error absent a showing of prejudice"See Houston v Bryan 725 F 2nd 516, 518 (9th Cir 1984)(holding district court's noncompliance with local rule requiring hearing be conducted on certain motions for summary judgmnet did not entitle appelant to reversal where appellant failed to show prejudicefrom lack of hearing).Debtor contends that because a hearing on the objection was not noticed , she was deprived of the opportunity to show that she had not frauddulently concealed the assets claimed as exempt , and that as a result , she was prejudiced and deprived of due process.

Although trustee did not notice a hearing on it's objection, trustee did notice a hearing on it's motion to approve the sale , which motion sought permission to sell assets encompassed by debtor's claim of exemption. The issues of debtor's entitlement to the exemptions and the sufficiency of trustee's objection thereto were adressed by the parties in the papers submitted in connection with the motion seeking approval of the sale, and therafter were heard by the bankruptcy court at the noticed hearing on the motion to approve , at which time debtyor had the further opportunity to, and did address the merits of her claim of exemption and the sufficiemcy of the objection. (1)

As noted the issue presented by the objection was whether debtor could claim an exemption in pproperty that the debtor had not disclosed. On that issue , debtor did not argue before the bankruptcy court and does not argue to this court , that a debtor who fraudulently (2) conceals assets may later claim those assets exempt. Thus, the legal issue was not in dispute.(3) Indeed active concealment of an asset no doubt requires denial of an exemption claim. (4)See Andermahr v Barrus (in re Andermahr) 30 B.R. 532 , 534 (9th Cir BAp 1983) Instead debtor sought an evidentiary hearing(5) on the question of whether she had in fact fraudulently concealed the assets. That very factual issue, had been fully adressed by the bankruptcy court when it granted trustee's motion for summary judgment (6) on trustee's claim for declaratory relief. In ruling on the motion for summary judgment , the bankruptcy court determined , based on undisputed evidence (7) , that debtor had fraudulently concealed the assets, a ruling memorialized in a final judgment granting trustees motion. A necessary result of that judgment , which this court later affirmed , was that debtor could not claim as excempt the very assets she had fraudulently concealed.At the hearing to consider the truteees motion for approval of the sale, the bankruptcy court declined to schedule an eviden tiary hearing to consider the exact factual issue it had previously adjudicated, and instead reaffirmed its prior final decision that debtor had fraudulently concealed the assets. There is no indication, nor did debtor so indicate to the bankruptcy court that she could have offered new evide relevant to the issue of fraudulent concealment , had a separate hearing been scheduled. (8)Under such circumstances , debtor was not deprived of due proces by the bankruptcy court's decision to reaffirm it's prior ruling tat debtor had fraudulently concealed the subject assets. Accordingly , as debtor has not shown she was prejudiced by trustee's noncompliance with bankruptcy local rule 9014-1 (b) (1) , and the finding of fraudulent concealment necessarily required t hat the claim of exemption be denied, the bankruptcy court did not err by denyin debtor's claim of exemption.

ConclusionThe denial of the exemption is affirmed.

DD 5, pg 5 **NOTES.**

(1) bankruptcy judge Newsome who represents Spear and Davis at all proceedings , was abusive to counsel who argued well, that among other issues : **that the Retirement fund exemptions are statutory in the State of Maryland , created by the legislature of the state, and there is no room for Newsome to attach a condition to it. What counsel ofcourse did not say, but petitioner wanted to ,is that these state rules and laws are not subject to challenge by a hired Article I judge that is an abusive corrupt predator. The law of Maryland is the law of the case.**

(2) there is not one scintilla of evidence of any fraudulent concealment . If there was the bankruptcy rules provide options. Petitioner sought to have the discharge vacated, (App 17 & 18) and withdraw the chapter 7 petition so she would be denied the benefit of the bargain. Newsome never scheduled it, because he immediately had made arrangements with Davis & Spear that they would extort, steal and keep petitioner's assets

(3) It was Judge Chesney duty to look at the issue de novo rather than be an apologist for Newsome and his corrupt enterprise.

(4) False . it was strongly and heatedly objected to.

(5) Wrong again. Petitioner had moved for summary judgment , anticipating that Newsome would rule against her, but this was her only chance at getting away from this criminal enterprise and hope for courts that are courts.

(6) There had never been an evidentiary hearing in this matter. Newsome with Spear and Davis make decisins somewhere , and he comes to work to read them.

(7) Newsome attached the word :fraudulent concealment" just to degrade petitioner.

DD 6 pg 1

United States District Court for the
For the Northertn District of California
Judge Maxine M. Chesney

PEPI SCHAFLER
Appellant*
v
RICHARD J. SPEAR Esq.
Appelle.

Date: June 12, 2001

From an Appeal dismissing judgement of bankruptcy court.

Pepi Schafler hereby appeals the judgmernt of the bankruptcy court, and renews a motion for a stay pending appeal. Her requests for oral argument are hereby denied Judge Chesney is sectively presntying slanting the facts in her recitation so that they will fit hers and judge Newsome's conclusion. The Newsome School of Law.On March 26,1996 debtor filed a chapter 7 petition in banlruptcy., and liste the following assest: Trustee of trust , the beneficiraies are debtor's adult children:. Debtor's interest 1.00. Location in debtors posession. (Judge Chesney failed to note, that alongside that there is a "bank claim" for conversion of $96.500, also loikewised described as debtors interest $1.00, and the ex spouse as an obligor , interest also listed as one dollar App. 1) (Why one dollar? Who knows. The schedules were respared by a counsel in Maryland. The fomer trustee who filed the interogatories, had no dificulties with that) (App 2 & 3). Debtort also attached to the petion a statement of financial affairs in which she stated that she had not transferred any property immediately prior to commencemen of this case, and under penalty of perjury stated that this is correct.(That is still correct. it was available for the trustee to examine. It is unfair to expect petitioner to know as much or more about the process than the former trustee, an attorney and private trustee for 12 years.)The matter was discharged and closed on July9, 1996. Judge Chesney says that the trustee moved on April 28, 1998 to reopen. (That is not exactly accurate and the court should not slant or distort, ort deceive. The Court may make findings as she wishes , but copying the facts as presented by debtor should be accurate. There was no longer a trustee. He had asked to be dismissed on May 1, 1996, and the court did so on July 9, 1996. All the possible assets were abandoned to Schafler as if no bankruptcy had taken place.The former trustee Field never contacted the former spouse, who was a debtor to petitioner, nor the banks re the claim. **Two years later , on April 28, 1998,** the angry scorned ex husband by then a disbared lawyer contacted the former trustee, offered him a to reopen the case, and harass the petitioner. The bankruptcy rules, and the bankruptcy doctrine of laches both hold that after one year a former trustee has no standing

DD 6, pg2

The former trustee deceived the court on whose behalf he was acting., when he sought reopening, nor did he tell the court that the assets were improperly scheduled..The former trustee Field told the court he may want to investigate **possible unscheduled assets of the estate. App 7.)** The court in the State of Maryland reopened on May 7, 1998. Judge Chesney takes a leap of one year to May 5,1999 and speaks of some ongoing proceeding by the trustee. A lot happened in between, including the horrible mistake by petitioner, who trustingly believed -based on prior experience that a " a court is a court" , dignified, honorabl . with integrity that respects everyone's rights, wound up in a corrupt Nazi like den of inequity, with a judge an abusive depraved predator, who within weeks after the transfer told petitioner that he plans to take away her assets from her and give them to his cronies Davis and Spear. Petitioner was stunned nd shocked, presumed he is inebriated or under the influence. What judge-even one who judges pies at a country fair- would say something like that. Judge Chesney goes on that on November 3, 2000, debtor filed a motion for summary judgment . Debtor argued that the trustee's cause of action for declaratory relief lacked merit because the former trustee , three and one half years earlier had irrevocably abandoned such assets to her when the case was closed in July 1996. On December 4,2000 opponent filed a motion saying that the debtor had "fraudulently concealed " her interest in the stock certificates and the condominium and therefore those assets are the proerty of the estate, and having heard Newsome say about one and one half year ago, that he plans to give them petitioner 's assets, they were anxious to get on with it. On Deceber 18, 2000 what passed as a hearing in Newsome's world, took place, and he granted summary judgment to Spear and Davis. holding that the Max Family Trust were petitioner 's property . On December 21, 2000 judgment was entered reflecting same. (Appendix 24).
On January 17, 2001 a notice of appeal wsa filed.

* (There was another issue of timely notice filing, appealed by the trustee which is not germaine at this point to the present matter. Judge Chesney spent several pages on that issue which shall be omitted , and proceed to summary adjudication.)

It is overwhelmingly evident that Judge Chesney is intent on affirming the bankruptcy court, which she ultimately did..

Standard of review.

An order granting summary judgment is reviewed de novo. See In re Lewis, 97 F. 3rd 1182, 1185 (9th Cir 1996)

DD 6, pg 3

" The reviewing court will affirm a grant of summary judmnent only if it appears from the record , after viewing all evidence and factual , inferences in the light most favorable to the nonmoving party, that there are no genuine issuesof material fact and that the moving party is entitled to judgment as a matter of law. " In re Yarbrow, 150 B.R. 223 , 236 (B.A.P. 9th Cir.1999.

Discussion: Pursuant to 11 U*SC #554 (c) unless the court orders otherwise any property scheduled under section 521 (1) of this title , not otherwise administered at the time of the closing of a case is abandoned to the debtor and administered for purposes of section 350 of this title. "{ The court has a note that 11 USC #521 (1) provides that a debtor has the duty to "file a list of creditors , and unless the court orders otherwise , a schedule of assets and liabilities , a schedule of current income and expenditures , and a statement of the debtor 's financial affairs" The court neglected to include the corollary or partner to that section , 11 USC# 704 a trustee has a duty to thoroughly investigate each case).Such abandonment is termed a "technical abadndonment" See In re Mernk 241 B.R. 896 , 913 (BAP 9th Cir, 1999). Although the general rule is that a technical abandonment is irrevocable, the first clause #554 (c) provides bankruptcy courts with "discretion to affect or prevent technical abandonment simply by ordering otherwise. See In re DeVore 223 B.R. 193 , 198 (BAP 9th Cir 1998). (Devore's major holding is that reopening a case means nothing other than getting the files out of storage. and nothing gets put back in the estate. 11 USC # 5010 requires that after reopening of a closed and discharged case, an evidentiary hearing must be held by the court. Never happened in the the present matter. The decisions were made in a bunker.). Judge Chesney notes that the Max Family Trust held securities in amount of $ 296.000 . As the evidence will show that is debtor's IRA her retirement account, exempt under Maryland law.In fact IRA's have to be claimed as exempt under the laws of the State of Maryland. **Ther preamble to the Maryland Statute on exemptions from judgment holds, that it is necessary , so as to prevent citizens from becoming a burden on the state in retirement.** Judge Newsome is only concerned about Spear and Davis's retirement. On appeal debtor argues that the bankruptcy court erred in granting summary judgment because trustee failed to shoe there was no triable issue of fact as to whether the disclosure were sufficient to provide trustee with " constructive notice". of the assets. Debtor contends that she should not have to "bear responsibility for the failure of the trustee to adfminister the trust assets , or deny discharge before he asked the court to close the case . Debtor relies heavily on In Re Atkinson 62 B.R. 678 (D. Nev 1986) . In taht action debtors scheduled a pending lawsuit as an asset

DD 6 pg 4.

by listing the name of the court case , the name of the court and stating the value as unknown. After closing and discharge the creditors sought reopening **Judge Chesney's bias is oozing continuously distorting her statements. There was no one in the present matter with standing to seek reopening. A scorned former husband that offers a bribe, that is not a creditor-but rather an obligor had no standing. Forner trustees can't free lance :" let us see what we find'. Even though the creditors had standing-they were directly affected , the court was a responsible court of integrity, not the corrupt doings of Randall Newsome. He gave all of debtors IRA to Spear and Davis as fees. Judge Chesney writes about a case that she is requested to review, like about a blind date. She speaks of not deprivinfg creditors-had she located any in this reopenening? The only ones moving this case forward had been the "bankruptcy gang" or the "bankruptcy mafia."**Judge Chesney concludes the ridiculous and inapplicable ananlysis by stating : " as stated by one bankrupcty court : "the bankruptcy code does not deprive creditors of the right to share in the debtor's property merely because the trustee failed to find the property or failed to take posession of it for creditors. See in re Harris, 32 B.R. 125 , 128 (S. D. Fla 1983) Rather the bankruptcy Code "deprives the creditors of the right to share in the debtor's property only if that property was formally abandoned bcase. casey the court after a hearing or if the property was explicitly iden tified in the debtor's bankruptcy schedules and was never admin istered by the tustee during thr pendency of the case.Judge Chesney is aware that almost two years elapsed from the closing to the reopening, and says that the former "acted expedidiously' after being alerted by the former husband. No pretense that there were persons with standing involved.

The judgment of the bankruptcy court is affirmed. *

* the other appeal involving extending the time to file notice of appeal, was due to Mr. Davis not providing the signed order until one day after the time to appeal had expired. What a surpeise that he would do such a thing.

APPENDIX 1

March 26, 1996 Debtor Pepi Schafler Case No: 96-12203 DK

pg 2 of petition

Item 19
Contingent and noncontingent interests in estate of decedent , death benefit plan, or trust
Trustee of trust, the beneficiaries of whom are debtor's children Debtor interest: .1.00
Location: *In debtor's possession*

Item 20.
Other contingent and unliquidated claims of every nature , including tax refund, counterclaim of the debtor, and rights to setoff claims.
Dismissed law suit against Marine Midland bank
Location: *In debtor's possession* Debtor Interest 1.00

Divorce claim against ex-husband
Location: *In debtor's possession* Debtor's interest 1.00

APPENDIX 2: Interrogatories report.

Interrogatories:

Date of meeting: May 1, 1996
Name : Pepi Schafler Case No: 96-1-2203 DK
Other bankruptcies : No
Transfers :No
Avoidable Liens: No
Real property: No
Pending Inheritances ? No
Tax refunds: No
Claims: Claim against bank -suit filed was dismissed Suit for $96.500
Significant personal property i.e. coin collection, rare books: no
Insurance No:
Statement of current income and expenditures filed? Yes
All assets and debts listed ? Yes

I hereby certify that I examined the debtor on the date shown, and that the debtor answered as indicated above.
Concluded.

Date 5/1/1996 Trustee: Scott . D Field

Appendix 3 : Trustee report on distribution

United States Bankruptcy Court for the District of Maryland

Re: Pepi Schafler: Case No: 96-12203

Trustee's Report of no distribution

I , Scott D. Field , having been appointed trustee of the estate of the above named debtor , report that I have neither received nor paid any money on account of this estate except exempt property ; that I have a made a diligent inquiry into the financial affairs of the debtor and the location of property belonging to the estate ; and that there is no property available for distribution from the estate over and above that exempted by law, and the debtor's 341 meeting has been held and concluded.

Pursuant to FRBP 5009, I hereby certify that the estate of the above named debtor has been fully administered.

I request that this report be approved and that I be discharged from any further duties as trustee.

Dated 5/1/96 ss/ Scott D Field.

Appendix 4 Bank conversion claim

SUMMER (Schafler) v MARINE MIDLAND Bank
(227 AD2D 932, 643 NYS2D 256)
Pepi Summer (Schafler)Appellant v Marine Midland Bank
New York State Supreme Court
Appellate Division
Fourth Judicial Department , Rochester NY, Monroe County.

Present: Lawton, Wesley, Callahn , Balio and Davis.

The above named Pepi Summer having appealed to this Court from the order of the Supreme Court , entered in the Erie County Clerk;'s office on February 7, 1995 , the order is reversed on the law without costs. The complaint is reinstated. Memorandum that is hereby made a part hereof.

Dated May 31, 1996

Carl Darnall
Clerk of the court

Appendix 5: Closing of the case by the court

United States Bankruptcy Court for the District of Maryland
6500 Cherrywood Lane, Greenbelt Md. 207770

Case No: 96-12203

In Re: Pepi Schafler (Pepi Summer)
4921 Cloister Drive
North Bethesda, Md 20852

Re: Petition for Relief under Chapter 7 filed by the above named on 3/26/96

FINAL DECREE

The estate of the above named debtor has been fully administered

It is ORDERED THAT :
Scott Field is discharged as trustee of the estate of the above named debtor and the bond is cancelled.
The chapter 7 case of the above named debtor is closed .

dated : 7/9/96

ss/ Duncan Keir, US bankruptcy judge

Appendix 6: The ex husband contacts the former trustee

Donald L.Summer
6096 NW 24th Street
Boca Raton , Fla 33434

To: Scott Fields Esq. trustee inbankruptcy

Re : Pepi Schafler /Bk No 12203 DK

Date : April 27 1998

Dear mr. fields;

My brief review of her petition in bankruptcy is as follows:

1. She listed as dismissed an action in Monroe County against Marinc Midland bank. In reality , that action is still pending in which she is the plaintiff, and it is proceeding in the Erie County Court System.(for accuracy please compare to Appendix 4).

I am also enclosing for your review copies of the following documents: Appraisal of personal property dated July 20, 1990. (8 years before)
2 Judgment of divorce filed March 17, 1993.

Very truly Yours
ss/Donald Summer

Appendix 7: Petition to reopen closed case.

United States Bankruptcy Court, District of Maryland
Southern Division

Re:
PEPI SCHAFLER

Case No: 96-1-2203-DK
chapter 7

Trustee's Motion to Reopen Case, and Vacate Final Decree.
Date: April 28, 1996

Scott D. Field , trustee (the trustee) for the above -referenced debtor, requests the court to reopen the above -captioned chapter 7 case and respectfully represents as follows:

1. On March 26, 1996, Pepi Schafler filed a voluntary petition for relief pursuant to chapter 7 of the bankruptcy code
2. The section 341 meeting of creditors was held at the office of the US trustee
3. Subsequent to meeting of creditors the trustee filed a no distribution report to this court
4. The court entered a final decree closing this case on July 9, 1996
5. The trustee has recently received information from an interested party regarding potential undisclosed assets of the debtor
6. The trustee therefore requests that the above -captioned case be reopened to permit the trustee to investigate and pursue recovery of the potential estate assets.

Wherefore the trustee respectfully requests that the court reopen the chapter 7 case of Pepi Schafler and vacate the final decree entered on July 9, 1996, and for such further relief that this court deems just and proper.

Respectfully submitted
ss/ Scott D. Field, Esquire
Chapter 7, trustee
4520 East West Highway , Suite 300
Bethesda Md. 20814

Appendix 8: Order to reopen closed case.

United States Bankruptcy Court, District of Maryland
Southern Division

Re:
PEPI SCHAFLER

Case No: 96-1-2203-DK
chapter 7

ORDER Reopening Case and Vacating Final Decree.
Date: May 6 1998

Upon consideration of the trustee's*motion to reopen case and vacate final decree , and after notice and opportunity for a hearing ,** and it appearing that the relief should be granted , it is this 6th day of May 1998, by the United states bankruptcy court for the District of Maryland
Ordered that the trustee's motion to reopen case, and vacate final decree is hereby granted : and it is further
Ordered that this case is hereby reopened under chapter 7 of the bankruptcy code, and it is further
Ordered that the United States trustee is authorized to administer any and all remaining *** assets of this estate or to appoint a chapter 7 trustee**** to administer such assets.

ss/ Duncan Kier
United States bankruptcy court.

*Judge Kier knows Fields is no longer trustee, and his saying so is a scam but refers to him as such , inconsistent with what he orders later.
** There was no notice and no hearing. there were only 5 business days between April 28 and May 6. Insufficient time for notice and a hearing. Most likely an ex parte event.
*** remaining assets ; the ex husband- informant provided false and inapplicable information on personal property left behind in NY State.
**** Despite crediting Field with being trustee, judge Kier knew that this was a scam , and orders that the US trustee administer the "remaining assets" or appoint a chapter 7 trustee.

Appendix 9. Appointment of trustee

United States Bankruptcy Court, District of Maryland
Southern Division

Re:
PEPI SCHAFLER

Case No: 96-1-2203-DK
chapter 7

Appointment of trustee and designation of required bond.
Date: June 25, 1998

Scott Field of Bethesda Md. is hereby appointed retroactively to May 7, 1998 as trustee for the above identified estate.* This case is covered by the blanket bond for chapter 7 case trustees , a copy of which is on file with the court.

W. Clarkson McDow Jr
U.S. Trustee Region Four

ss/ Clifford J.White III
Assistant U.S. Trustee

* It is recognized by all that when Field sought reopening and identified himself as trustee, he was not . And when the court reopened he was not . It was all a lie.

Appendix 10 : Motion to convert to chapter 13

United States Bankruptcy Court, District of Maryland
Southern Division

Re:
PEPI SCHAFLER

Case No: 96-1-2203-DK
chapter 7

Motion to convert case to chapter 13

Pepi Schafler, the debtor in the above -referenced case, respectfully moves for an order converting this case from a case under chapter 7 to a case under chapter 13 of the bankruptcy code, and states in support of her request the following:
Pursuant to Section 706 (a) , the debtor may convert this to chapter 13, as a matter of right.

Wherefor the debtor requests the entry of an order converting this case from a case under chapter 7 to a case under chapter 13.

Dated August 28, 1998

Respectfully submitted

ss Richard Toikka
Farkas & Manelli
2000 M Street , N.W
Washington D.C. 20036

Attorneys for Pepi Scahfler

Appendix 11 : Order to convert to chapter 13

United States Bankruptcy Court, District of Maryland
Southern Division

Re:
PEPI SCHAFLER

Case No: 96-1-2203-DK
chapter 7

Order Converting Case to Chapter 13

For the reasons set forth in an accompanying memorandum , it is by the United States bankruptcy court for the District of Maryland,

Ordered: That this case under chapter 7 be , and hereby is converted to a case under chapter 13.

Date signed : 10/29/98

ss / Duncan W. Kier

United States bankruptcy court judge
for the District of Maryland

Appendix 12: Requests to speed up confirmation of chapter 13

Letter from Pepi Schafler to judge Duncan Kier

Dear Judge Kier:
A letter that arrived in yesterday's mail indicates that the chater 13 final confirmation hearing is scheduled for January 28, 1999. Since I must leave the state by December 31, 1998, I respectfully requests that this confirmation hearing be rescheduled for earlier, or I be permitted to appear by telephone.

Respectfully
ss/Pepi Schafler

United States Bankruptcy Court for the District of Maryland

Re: Pepi Schafler Case No: 96-12203-DK

Motion for Continuance in Chapter 13 proceedings, and transfer of jurisdiction of the above matter to the bankruptcy Court of Northern California

---

Pepi Schafler, debtor hereby asks this Cort for a continuance of any further chapter 13 and transfer this matter to the court in Northern California. After January 1, 1999 Pepi Schafler will be residing in the San Francisco Bay area. An unexpected tragedy has struck her familly: her only sibling was diagnosed with a grave, grave illness that is most likely terminal. This has caused anguish , pain and despair. Schafler needs to be with her family to help his wife and child save or prolong his lfe. Within a few days she expects to have a California address and provide same to the court.

Respectfully
December 11, 1998 ss/Pepi Schafler

****

Same title to same Court:

Motion to Reconsider the denial of continuance and change of venue
Pepi Schafler asks this court to reconsider the denial of the motion for continuance and change of venue, and wishes to inform the court that she will reside at 642 Preakness Drive, Walnut Creek, Ca 94596

Respectfully
December 26, 1998 ss/ Pepi Schafler

Appendix 13: Denial of Motion to accelerate confirmation and change of venue

United States Bankruptcy Court for the District of Maryland

Re: Pepi Schafler

No: 96-1-2203-DK
Chapter 13

Order denying Debtor's Motion to Reschedule Chapter 13 Confirmation Hearing

The request to reschedule the confirmation hearing scheduled for January 25, 1999 or in the alternative appear by telelphone is hereby denied.

ss/ Duncan Kier
Bankruptcy court judge

Appendix 14. Orders excusing appearance by debtor, ex parte hearing to proceed, denial of chapter 13 confirmation , reconverting to ch. 7, and changing venue.

United States Bankruptcy Court for the District of Maryland

Re: Pepi Schafler Case # 96-1-2203-DK

February 19,1999:

Order excusing appearance.

Pepi Schafler is excused from appearing at the February 25, 1999 hearing , but the hearing will go on.

ss/Duncan Kier , judge

February 25, 1999

Order denying confirmation of chapter 13 plan
For the reasons set forth at the hearing held on February 25, 1999, it is hereby ordered that the confirmation of the plan is denied .

ss/Duncan Kier

February 25, 1999

Order : Reconverting case to a case under ch. 7, change of venue

At the hearing held this day , and upon motion by the trustee this case is reconverted to chapter 7, and the venue is changed to Oakland California

ss/Duncan Kier

Appendix 15: Re "phantom " trustee Richard Spear an attorney for the past 30 years or more been appointed to more than 2000 annually which he subcontracts i.e. sells to other attorneys.

Rules:
The United States Trustee conducts an open system for the recruitment of person interested in serving as private trustees. The US Trustee must assure equal opportunity for all appointees and applicants,. 5.8 C.F.R. # 58.5
Term of appointments to the panel of private trustee are for a period not to excee one year.

Excerpts from depositions and statements under oath by Richard J. Spear to Pepi Schafler, Dated : January 26, 2000 and September 28, 2000.

Statements under oath:
He has been a private trustee for about 30 years
That long ago , hired by a judge Wesley (?) , who is no longer around.
Does not know how one gets hired now.
Is hired for about 2000 cases annually.
Would not discuss the arrangements he has with the attorneys he sells i.e. subcontracts the cases to. He has 5 or 6 favored ones.
He also collects the statutory trustee fee even though he subcontracts the cases.
To a question : what does he do as a "trustee" in the present case?
answer: it would take him a whole week to tell what he does.
Records show a monthly or bi monthly 5 min . telephone contact.

BEST AVAILABL

Appendix : 15 Motion to reclose in lieu of a 11 USC #5010 evidentiary hearing.

United States Bankruptcy Court, Northern District of California
Oakland Division

Re: Pepi Schafler

Case No: 99-42138-05

Motion to reclose a three year old previously discharged for two years chapter 7 case, and then one year ago, improperly , unfairly and unjustly reopened.

Pepi Schafler hereby moves thyis cort for a hearing on June 1 , 1999 or as soon after as the court finds convevnient , to consider the reclosing of the above identififed three year old closed Chapter 7 proceeding which was iproperly reopened two years later on false information provided by a scorned and despicable ex husband in collusion with the former trustee, to whom compensation had been promissed if he harasses this litigant.

Dated April 22,1999

ss/Dr. Pepi Schafler

This Motion was never scheduled., although judge Newsome consulted with the opponents about it,

the motion is eight pages long.

FILE COPY

Appendix 17: Motion to withdraw Chapter 7 petition

In the United States Bankrutcy Court For the Northern District of California Oakland Division

PEPI SCHAFLER

Case No: 99-42138-NS

v

RICHARD SPEAR

Motion to Dismiss Chapter 7 Petition

This litigant who has requested that her discharge in the above identified matter be revoked, hereby requests that the chapter 7 petition be dismissed

May 28, 1999

Submitted
ss/Pepi Schafler

THIS MOTION WAS NEVER SCHEDULED AND NEVER HEARD

judge Newsome has ex parte contact wih the opponent and presumably that is how they wanted it.

Appendix 18: Motion for revocation of discharge

In the United States Bankrutcy Court For the Northern
District of California Oakland Division

PEPI SCHAFLER Case No: 99-42138-NS

v

RICHARD SPEAR

Motion for Revocation of Discharge

This was an in part a response to a motion by opponent , but also a motion for revocation of discharge , to enable petitioner to exit the system.

The last paragraph of this 8 page motion reads: " By this Motion this debtor restates her request that this Court revoke the chapter 7 discharge granted on July 5, 1996, and any further relief the Court deems appropriate.

Dated May 28, 1999 ss/Pepi Schafler

THIS MOTION WAS NEVER SCHEDULED AND NEVER HEARD

judge Newsome has ex parte contact wih the opponent and presumably that is how they wanted it.

Appendix 19: Ex parte hearing scheduled by Davis re vacating discharge

In the United States Bankruptcy Court for the
Northern District of California Oakland Division

Pepi Schafler Case No : 99-42138-NS

v

Richard Spear

June 2, 1999. judge Montali presiding
Newsome was on vacation

Transcript of exparte hearing:
Present Dennis Davis only.

Court: Did you receive the debtor's motion for revocation of discharge in response?
Davis: Not in response: I received several motions from the debtor.
Court: This was filed yesterday:" It's entitled "Motion for revocation of discharge."
Davis: That's really not what she intends it to be. She just doesn't understand what it is all about.
Court : I don't know what she intends it to be
Court: I noticed that she sent out a notice for permission to set a motion on June 1, or whenever it was convenient , but I checked the calendar. and there is nothing set.
This is about the motion in App 16 asking for an evidentiary hearing on the facts , which was never heard. Newsome consulted with Davis about it, and of course they did not want facts to be introduced. Just their lies and frauds.

Judge Montali is a respected judge.

Appendix 20: letter to the bakruptcy court re denial of any access same

Dr. Pepi Schafler
642 Preakness Drive
Walnut Creek, California

June 10, 1999

To: Judge Randall Newsome
Bankruptcy Court, Oakland Division
1301 Clay Street
Oakland, California

Re: Case No: 99-42138-NS

Dear Jusge Newsome:

I am very concerend that I have no access to the court, to be heard while for others it is an open door policy. Dennis Davis has even said that he speaks for the court.

ss/Pepi Schafler.

Appendix 21 sample listing of "services by the burglar paid for with petitioner's assets

This burglar cum investigator is named Richard Carl

9 , 17. 99 drive by
9. 19 . 99 Surveilance
9. 20. 99 Search records in two neighboring counties
9. 21. 99 trash
review documents
9. 23 99 Surveilance -this was going on for many hours
9 26 99 DMV info Maryland
9. 27 .99 PU trash
review documnets

On and on it went for a long time he stalked, tresspassed, and burglarized and petitioner's residence.

Please examine Appendix 22.

Appendix 22.Peitioners private residence and private access

Affidavit.

William Bothe
212 Normandy Lane
Walnut Creek, Ca 94598

March 28, 2000

To whom it may concern:

I William Bothe along with my wife Juana Bothe are the owners of the home at 642 Preakness Drive in Walnut Creek, California 94596 , rented to and occupied by Dr. Pepi Schafler since January 1, 1999.

This is a privately owned development , limited to residents, owners and invitees,in which no municipal services are provided . All the necessary services and amenities are privately paid for throught the fees assessed to home owners.

The trash for single homes like 642 Preakness Drive is kept in the attached utility shed to which the private haulers have entry and remove it,

ss, Wiliam Bothe.

Appendix 23: The list of Petitioner's stocks extorted, seized and stolen.

TO: CHRISTOPHER J. CANNON ESQ
Sugarman & Cannon
600 Harrison Street, Suite 535
San Francisco, CA 94107

From Pepi Schafler June 24, 2000

Dear Chris:

As per our agreement , enclosed find the stock certificates in my posession, except one, for you to share with judge Newsome Hopefully he will let **you** hold them, or he will.I believe that Dennis Davis is thoroughly dishonest and as corrupt as they come.

Disney 1200 shares as of October 1999: there are more now like 1440 or thereabouts. Davis contacted Disney in October 1999 and told Disney that these shares belong to the bankruprtcy court.They are being held there.

AT & T 250 Shares

McDonalds 600 Shares

AOL 2120 shares

Symbol Technologies 337 shares

Microsoft 720 shares

Chevron 100 shares

Dell Computer 125 shares

Coca Cola 400 shares

Eli Lily 100

GE 800 shares

Cardinal health 562 shares

Lucent Techn. 256 shares

Biogen 200 shares

Amazon 200 shares

There might be more through about to split.

Sincerely
Pepi

APPENDIX 24: Summary judgment on Cross Motion
Against Petitioner

Dated December 21, 2000

Dennis D. Davis Esq.
44 Montgomery Street, Suite 2900
San Francisco, California 94104

Counsel: For Richard J. Spear Esq.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

RICHARD J. SPEAR Esq, trustee. Case No: 99-42138-NS
Plaintiff

v

PEPI SCHAFLER
Defendant

Judgment after Cross Motion for Summary Judgment

Defendant Dr. Pepi Schafler's Motion for Summary Judgment *and the Cross Motion for Summary Judgment filed by plaintiff Richard Spear came on for a hearing before Oakland California bankruptcy court judge Randall J. Newsome on December 18, 2000. Appearances made are reflected in the record.

It is hereby Ordered , adjudged and decreed:
1. Judgment is enterred in favor of Richard J. Spear trustee on the trustee's claim for declaratory relief
2. The following properties and their proceeds are property of this bankruptcy estate:
a. all the stocks and bonds currently held by the trustee that were turned over to the trustee by the debtor
b. all the stocks and bonds owned by the Max Family living trust as of March 26, 1996 as well as proceeds of said stocks and bonds
c. the Florida condominium
d. all other property held by the debtor in the name of the Max Family Living trust

Appendix 24 pg 2

3. The trustee is authorized to liquidate the aforementioned assets for the benef of creditors
4. Judgment is enterred in favor of Dr. Pepi Schafler on the trustee's claim to revoke the discharge**.

ss/Randall Newsome

Notes:
*As previously noted , petitioner filed for summary adjudication knowing that Newsome would rule against her, but just to get out from that hell of corruption and criminality which is the courtroom whwere Newsome works. None of the appellate decisions correctly noted that In itself not very relevant , but an indication that no court has read hese matters carefully with an open mind; it appears the appellate review was predicated on , and motivated by "how best can we affirm the Newsome decision."
**In denying Spear's mtotion to vacate the discharge, Newsome never even mentioned petitioner's motion to vacate the discharge (App. 18) This judgement and order was written by Davis, and worked out in advance with Newsome-obviously ex parte. His not vacating the discharge benefits the cronies on whose behalf he stole petitioner's money, because had Newsome vacated the discharge a!l the creditors come back and would say: these assets are ours.Let us have them. But Newsome had prom issed them to Spear and Davis, therefore he had to make sure that they are gone. Petitioner also sought to have the discharge vacated. At the first encounter with Newsome he told petitioner he would give her money to Spear and Davis, and call it fees .He did that.

Appendix 25 & 26
Appendix 25: The Maryland Exemption Rules
Appendix 26: The IRA and other tax deferred and exempt items pursuant to domestic distribution law.

Exemption 1.

The State of Maryland exemptions for any retirement plan pursuant to Section 11-504(f)(h) of the Maryland Courts and Judicial Procedures are **Constitutionally mandated.** Exemption are created pursuant to the Mandate of Art. III # 44 of the Maryland Constitution. The purpose for bankruptcy exemption for retirement plans, in this State is to prevent an improvident debtor and the debtor's family from unnecessarily becoming dependents of the State , requiring public support. Therefore a debtor must claim the retirement exemption.

Under Maryland Law , when property is sold under foreclosure of mortgage, mortgagor is entitled to his retirement exemption against his judgment creditors.

Under Maryland Law , a debtor who has made a deed of trust for benefit of creditors is entitled to his exemption.

These exemption , under Maryland Law must be liberally construed *In Re: Solomon , 166 Bankr 832 (bankr D. Md aff'd 173) (Bankr 325 1994.*

Exemption 2
Pursuant to Maryland Rule # 11-504 (b) 5, there is an exemption for any kind of property not to exceed $3000.

Exemption 3
Maryland Rule # 11-504 (f) provides for the exemption of an interest in real property not to exceed $ 2500.

THE IRA AND OTHER TAX FREE ENTITIES TO PETITIONER

(1) From :
Birzon & Zakia
Attorneys and Counsellors at Law
360 Statler Towers
Buffalo, New York, 14202

To:
Erie County Sheriff's Dept
Civil process Dept.
134 West Eagle Street
Buffalo New York, 14202

July 8, 1993
Re: Summer v Summer

Gentlemen:
Enclosed find five (5) separate Executions Against Property in connection with the above matter. I am also enclosing a d certified copy of an Order and Judgment in favor of the Plaintiff, Pepi S. Summer against the Defendant/Debtor , Donald L. Summer in the amount of Three Hundred Forty Thousand Eight Hundred Seventeen Dollars, and Twenty Seven Cents ($340.817.27) which was filed and docketed with the Erie County Clerk on July 7, 1993. Our file reflects the last known address of the Judgment Debtor Donald L.Summer SSN 060-30-0500.as 1300 Statler Towers , Buffalo NY 14202. ,

At a Matrimonial Special Term of the Supreme Court of the State of New York, held in and for the County of Erie at 50 Delaware Ave , Part 16, Buffalo New York, on the 14th day of July 1993

Filed July 14, 1993

The Hon. H. Buswell Roberts Presiding

Pepi Summer
Plaintiff

ORDER

v
Donald L. Summer

Index: No: H-75004

Upon the Order to Show Cause of the 13th of July 1993.....

It is hereby ordered:
Ordered: that Shearson Lehman brothers Inc are immediately directed to roll-over fifty percent 50% of the IRA in the name of Donsld Summer account number 356-614-72-15-0615 into an IRA in the name of Pepi Summer account number 356-31998 -13-065 effective July 20, 1993.

Ordered that Defendant immediately transfer to Plaintiff the various shares of stock subject to this order, and that said transfers take place before an appropriate authority to guarantee said signature,

Ordered, that the judgment in amount of Three Hundred Forty Thousand Eight Hundred Seventeen Dollars and twenty seven cents ($340.817.27) filed on July 7, 1993, by Pepi Summer aginst Donald Summer is hereby vacated.

ss/ H. Buswell Roberts.

Addendum:

In the early 1990 ties there had been a consolidation of brokerage houses, with the larger ones bying out the smaller ones. Other than a name change there was no significance to that. (The opponent tried to make something of that)

Petitioner also changed the name of the IRA into the Max Family Trust. There was no significance to that either other than the desire to drop the name Summer.The IRA and the Marital distribution are tax free to petitioner. Everyone may invade their retirement fund, to purchase a home, for health care costs , education costs, except they have to pay the taxes. These would not be taxable to petitioner.

SCHEDULE C - PROPERTY CLAIMED AS EXEMPT

Pepi Schafler **Case No: 12203-DK**

Description of property:

IRA Rollover

account # 356-31998 at Shearson Lehman brothers **name Pepi Summer**
Shearson Lehman brothers merged with Smith Barney account # 356 -36099
Smith Barney merged with Solomon brothers became
Solomon Smith Barney
Pepi Summer retitled Max Family Trust account # 179-40963-11
Law providing exemption: MD Courts and Judicial Proceedings11-504(h)
Value of the claimed exemption: $275.000
Current value of claimed exemption: $275.000 plus interest starting on April 25, 2001.

Property not to exceed $ 3000

Equity in apartment #204, 5780 Fairway Park Court, Boynton Beach, Fla 33437
Law providing exemption: Md. Courts and Judidial Proceedings 11-504 (b)(5)
Value of claimed exemption #3.000

Interest in real property not to exceed $2.500

Interest in real property in Apt # 204, 5780 Fairway Park Court,
Boynton Beach Florida, 33437
Law providing exemption: Md Courts and Judicial Proceedings: 11-504(f)
Value of claimed exemption: $2.500

APPENDIX 27 ADMINISTRATIVE FEE:

The bankruptcy court and the appellate courts violated petitioner,s procedural due process rights , her rights to an unbiased court and an administrative fee pursuant to 11.USC 503.

The deniall is unwarrantefd and even more galling because it comes from a corrupt predatory bankruptcy court and the appellate courts just look to affirm. The public complains of the inpenetrable "blue wall" of law ebnforcement who excue each otherswrong doing and largely c cover up for each other. There is "black robed wall " that does the same thing.

In the period from March 1996 to April 2001 the costs of maintauining this apartment have been $63.113.
Mortgage: $38.880
Condominium fees $9210
Homeowner Assoc. fees $4280
Insurance $990
Repair and maintenace contract $815
Telephone $1300
Power & Light $2.238
Water & Sewer $1100
Replacements: Hot water tank $450
Compressor $850
Miscelaneous $3.000
Total $63.113

Petitioner had accidentally omitted the cost of cleaning: Carpets, and regular maid cleaning. $1.500,

In the period of five years the apartment has been rented fourt times ; the rules permit only one rental per year usually it is in the winter months mostly for 3 months. The rental income generated was $19. 440

Total expenses after deducting income is $43. 673.

It is not hard to guess that judge Newsome who told petitioner at the first encounter that he plans to take her money and give it to Davis and Spear, is not interested in 11 USC 503, (b)(1)(A) or anything else that is legal, fair and just.

APPENDIX 28: The Interim Fees:
The lies, theft and rapacious plunder.

The first time petitioner encountered judge Newsome of the Oakland bankruptcy court he told her that he is planning to take her assets away from her and give them to Davis and the cronies, and erven lie about it by calling it "the estate". Petitioner was hoping he would sober up soon. It is not known whether he has or has not , but he did exactly that. His conduct is not only reprehensible, but is also criminal stealing is stealing.

On June 24, 2000 (App 23) petitioner hnded over to the crooks securities worth somewhere in the vicinity of $450.000-$475.000 Not willingly to be sure-taken by surprise, not prepared for the existing corruption. On December 18, 2000 responding to petitioner's motion for summary adjudication Newsome granted the cross motion by Spear, and held that petitioners assets abandoned to her , and largely exempt belong to Spear and Davis-the pretense of a legitimate estate must be abandoned. (App 24)

With tthe securities in hand, noe the task was for Davis to fill pages with claims for fees, make it confusing, so it will be hard to decipher, and go for it. Essentially nothing legitimate happened in this matter other thanworking on steling the assets.

In February 2001 Davis had his "interim fee request ready", sent it out and set a hearing on it for April 21. 2001. The interim fee request, convoluted like an electricity grid, covering almost 140 pages asked for Two hundred and sixty seven thousand and one hundred and eighty one dollars $267.181 in fees for getting themselves fees. Spear claims fifty thousand dollars. 50.000. Total: $317.181 " as fees" This is beyond outrageous. At the hearing on April 25, 2001 Newsome awarded them these fees and lying crook that he is said: "the estate has waited long enough" He is aware though that he is lying and is a corrupt predator. In denying petitioner her IRA exemption, he had a monetary attack of truth and said: " if petitioner prevails in the appellate process than Spear and davis will have to return the money" No pretense about an estate.

Petitioner reconfigured the fee request into readable pages , which made this about 68 pages long.

Davis demanded and received over one hundred and twenty thousand dollars -$120.000-for a trial . there never was a trial, there had not ever been an eviden tiary hearing.

Davis demanded and received about $50.000 for "tracing" Since he and Newsome had hired a burgalr to steal petitioner's records , which were all in order-what was there to trace? Turns out that was about the change in name of the brokerage house, something that anyone that reads on the 7th grade level could figure out . When Shearson merged with Smith Barney, they send a notice and say as of such a date the new name is Smith Barney; thereafter they merged with Solomon brothers and became Solomon Smith Barney. Does that need a lot of tracing?

On any given day there are double, tripple and quadruple entries for the same thing "research and review".

Davis demanded and received $ 6.800 for keeping in touch with the ex husband.

Davis demanded and received $.2.200 for representing judge Newsome when petitioner sought his recusal. This wasan unethical act of bribery on both their parts. Petitioner sought an opinion from the California Bar regarding this matter.

Davis demanded and received payment of $3.600 for copies. At 20 cents a copy that covers about 16.800 copies. A wall of copies if ity ewere true.

Davis demanded and received approximately $18.000 for a trip to Washington D.C. during cherry blossom time, to depose the ex husband. and a former stock broker.

Davis demanded and received about $2.000 for messenger service.

Although it is obvious that judge Newsome prostitutes his job, and that petitioner was his victim, singled out to steal her money, which is what Nazi 's did. But Newsome and Davis also needed to assert their control in other ways.

On September 6, 2000 depositions were scheduled for September 28, 2000 to include petitioner, Davis and Spear Notices were sent out , and petitioner had left for the east coast on September 8. On the way to the airport petitioner was injured in an accident and had her left shoulder dislocated

was briefly hospitalized and required to wear a stabilizer for her arm and shoulder , which made driving a bit difficult. The place for the deposition had not been set, and the issue was who would cross the Bay bridge. Davis was adamant that he will not, and petitioner was equally adamant especially because of the injury. But since Davis is the House favorite with Newsome, and complained about this issue, so Newsome scheduled a hearing,for September 20, 2000 wasting the public's resources to order petitioner that she go to Davis's choice for the deposition. To the complaint that driving is difficult with one hand, and somewhat dangerous, he replied "take public transportation" Newsome awarded Davis $550 in fees for that caper., out of a total of $1600 for the day.

On April 25, 2001 the securities were orederd sold, and Davis alleges that the sale brought only Three Hundred and Sixty eight thousand and four hundred and eleven dollar -$368.411- of which the cronies received $317,181 in "fees"In the fee schedules there are zero expenditures for any former creditors,and the expenditures to keep the "illusionary trustee" informed are about $1.000.Whether judge Newsome received any of this money, petitioner does not know as yet.

<u>This rapacious plunder and theft of petitioner assets is a criminal act, reepresents theft under false pretenses, and many other impermissible offenses. Petitioner prays that this Honorable Court will return her stolen assets to her</u>

Appendix 29 Hearing of April 25, 2001

During this hearing , in judge Newsome's own words he admitted that the assets he is about to rapaciously plunder and steal, belong to petitioner. Furthermore he acknowledged that his theft is on behalf of Spear and Davis (possibly himself and another person) as well. It is quite disturbing that the Appellate courts ignored the evidence because they were intent to affirm the lowest courts.
The recurring theme in the present matter is the abuse of the judicial process by judge Randall Newsome, who in his ignoble perfidy found petitioner to be suitable prey, and with his cronies and with the cronies could rob and terrorize. The court proceedings in these matter were either ex parte or a sham. Secure in Newsome's bias in his favor Davis scheduled proceedings ex parte , when he knew that petitioner was out of town or even out of the country, without her having notice. or be present Newsome did not mind. Due process ? Not in his nazi agenda. Consequently , none of petitioner's motions were ever scheduled, nor was there ever an evidentiary proceeding. (App 16, 17, 18) While acting as prosecutor , persecutor, accuser and abuser, and representing the opponent , he falsely accused petitioner of wrongdoing. Were this so, than certain Constitutional rights attach. Not in his scheme of things . He is no longer cognizant of is abusive biases . This is his "normal" At different times when he ranted against petitioner , he would thereafter turn to his cronies, and in his best voice half whisper to them " this means you as well".
The hearing for April 25, 2001 was scheduled by Davis to get the promised to him bounty, which he had been zealously hunting for and had been promised to him under the false title as "fees" Davis through his "counsel" Newsome wanted to object to petitioner's IRA exemption claim (App 25 &26) ., and the administrative fee request (App 27). But the objections were not noticed for a hearing as required by the rules, and did not meet due process requirements. Petitioner was fortunate to have counsel for this proceeding , which meant not having to be in Newsome's presence. On January 30, 2001 judge Newsome uttered a threat against petitioner. Therefore in addition to detesting him, it had become dangerous for her to be in his proximity

Transcript of hearing April 25, 2001
The transcript is 47 pages long, these pages are limited to the relevant. **Present: Dennis Davis, Richard Spear, Charles Dell'Ario counsel for petitioner, and judge Newsome.**

C should stand for court -judge Newsome
DD for Davis
DA for Dell'Ario
C. the first matters I am going to take up are the motion to sell and the objection to the exemptions. Also the request for an administrative expense might as well be dealt with today.-the debtor's request for an administrative fee.

DA. we set that for a special hearing as we are required to do, for May 16, 22001. These claims are factually intensive.

C I don't think they are; there are questions of law whether a debtor is entitled to a priority administrative expense at all.
DA . I did not come prepared to address that.

C. If you don't disclose property you can't claim it, not as an exemption or for an administrative fee.
DA When the case was closed the property was hers to do with as she would. The examination of these matters must go back to Maryland to the facts that her property is not part of the estate at all.

C She was concealing the property all along.
DA You are not entitled to draw that conclusion.

C. Well I have drawn it

DA. Very well, you have. Goes on to explain why an administrative fee is appropriate: because petitioner spent her money maintaining this asset for a "possible estate".

C. The property was concealed.

DA. It was not ; it was scheduled.

C. No it was not

DA Yes it was . The trust was scheduled.

C. She was in complete control of the trust

DA That is why it states on the schedule that it was in her posession.

C. Look if you want to argue some more that is fine . You objected to the fees. **I told your client the first time I saw her or I am pretty sure it was at least the second that every objection raised by her or anybody, she pays for it it comes out directly out of her assets.**.(**In a moment of full brain activity Newsome acknowledged that the assets he stole and is about to hand over to the cronies do not belong to an estate , but to petitioner, despite all his previous lies.)**

DA Had there been an indication that this matter was going to be heard today I would have briefed it and prepared for it.

C. It is almost a certainty that I am not going to grant your motion for an adminisrrive claim.

DA Very well.

C . Now about the motion to sell and the claim of - objection to exemption

DA. The claim of exemption is another matter that is not properly disposed of by way of a reply brief to a motion to sell. The objection in no way complies with this court's rules regarding setting this matter for a hearing.

C. Other than not having a hearing date on it, and being captioned "notice , what other things are wrong with it under Rule 9014?

DA Well Rule 9014 of the bankruptcy rules or Local Rule 9014-1?

C Any rule

DA 9014-1 (a) specifically says that a hearing is required on a claim of exemption.

C. Le us asume that is trueWhat are we going to do if wee take this to trial?

DA we are entiled to put on evidence.

CAll right: So what you really want is to make a collateral attacck on the findings I had already made.

DA. I am making a direct attack

C. It is collateral because it has already been ruled by me.

DA You ruled on a different standard of proof: namely the preponderance of evidence standard rather than clear and convincing standard.

C . There is no clear and convoincing standard in bankruptcy court

DA Yesthere are

CA Well if they do they are wrong.

DA Exemptions can fail for one of two reasons.: because the standard is not met, or for bad faith.

C. Bad faith and concealment can be used inerchangeably

DA Bad faith is a matter of clear and convincing proof.

C. No. I am going to make a ruling that the question of bad faith or concealemnt is by the preponderance of the evidence. What else needs to be decided in order to decide the exemptions:?

DA I don't think you are entiled to give collateral estoppel or res judicata effect to your own summary judgment effect.

C. Might be, but I have made them. , and I don't intend to relitigate them.

DA. I would not ask if I d[illegible] not think it is an appropriate request. You are required to give us a hearing.

C. No . I am not. I don't think you are entiled to it in the slightest.

DA Re the sale of the property : This court lacks jurisdiction to order the sale of the property at the summary judgment stage., it will cause irreparable injury

C It does not preclude me from going ahead with the sale.

DA I was counting on your consideration

C. If she prevails she is entitled to the cash value.
C. Mr. Davis , do you wish to be heard on anything/

DD. No your honor.

C. Mr. DA do you have anything else to say?

DA. Only to the point that the objection was not properly raised in a timely manner, therefore it precludes us from going forward.

C.I don't know about evidentiary hearings to relitigate, and what can be said about the claim of exemption.

DA. That your honor is unwilling to give us a hearing on the claim of exemption or relitigate any facts.....

C. That is not quite accurate. You are having you hearing right now

DA. An evidentiary hearing.
C. Yes that is accurate.
DA The court will rule based on it's prior ruling, which is not entitled to preclusive effect.

C. Well this motion by Schafler opposes the sale of the securities until the objections to the claims are brought., and her exemptions claim heard. The securities are ordered sold , and proceeds given out as fees.

The next twenty pages are devoted to fee requests . The ignoble judge Newsome makes outrageously disingenuous statements about the fees, comments that belong to a common swindler not anyone entitled to be called judge. He made a big point about a double entry for 105 dollars, he missed -intentionally of course- more than $120.000 for a "trial". While a few pages back Newsome said several times to Del'Ario:" look these are you client's assets; or this is your client's money. . Toward the lasts page of this transcript , he said petitioner's money belongs to the creditors, while he gave it all to Spear and Davis as "fees". This Honorable Court is asked to take notice that all the arguments of the opponent were made by judge Newsome. Davis did not speak even once. A judge is not permitted to practice law.

practices law impermissibly. This also makes it clear that petitioner was abused and railroaded. No wonder she could not get counsel to represent he They would have had to argue against a corrupt judge rather than another lawyer.There was no judge to listen and impartially judge. The so called judge was trying to steal her assets from her for his clients: the cronies.

Newsome did not want an evidentiary hearing; there had never been one an petitioner was without counsel throughout. He did not permit one even whe there was counsel.

Appendix 30. Re the fraudulent extortion predatorydeceptions and criminality of Dennis D. Davis counsel for the illusionary trustee Richard J. Spear, which is suborned and encouraged , defended and rewarded by bankruptcy court judge Randall Newsome . Davis lies to and deceives Newsome as well when needed, but Newsome does not mind, he is still his "house favorite".

That Dennis Davis is a shameless lying crook of gargantuan dimensions and considered to be the most unethical attorney in San Francisco and the Bay area would be of no consequence other than the fact that he is judge Newsome's favorite and favored ,and that petitioner was gravely victimized by him.It is too extensive to detail, that will have to wait. When an error in judgment and lack of knowledge of how corrupt some sections of the court system can be and how much fraud is tolerated, it all became personal. Davis has caused petitioner great harm. The following case demonstrates what Davis is capable of ,and the kind of activities he engages in : a massive fraud deceiving the District Court, his client and the opponent. Therefore deductively and constructively it is easily imaginable the extent to which he was able to to harm this petitioner, who was new to the area, new to the system ,without counsel, and an ignoble judge Newsome whose favorite Davis is.

In Re Boyd, 243 B.R. 756 (N. D. Cal 2000)
United States District Court, San Francisco ,
Judge Breyer , presiding.

The issue in Boyd is the failure the Boyd's to list a claim in tort against Home Depot on their chapter 7 petition. After the discharge they received $700.000 from Home Depot and they sought exemption for this award. The trustee whose counsel Davis was ofcourse screamed fraud, and expressed objection. Pursuant to the Fed. Rule of Bankr. Proc. 11 USC # 4003 (b) an objection must be filed within 30 days. Davis did not. But not to worry: **he pretended that he had, deceiving Judge Breyer, the Boyds and their counsel,and his own client.** He continued to appear before judge Breyer , demanding the funds from this award, continued to accuse the Boyd's of fraud , continued the legal process of negotiating , knowing that he is deceiving everyone . An untimely filed objection is not acceptable, and therefore he had forfeited his right to continue , and his actions were a massive fraud. Suspicious the Boyds' counsel checked the docket and realized the fraud and notified the court. Ofcourse the proceeding was dismissed, and an infuriated Judge Breyer told Davis to stop practicing law, his kind are not needed in he profession.

Appendix 31: Re the misconduct of bankruptcy court judge Randall Neson

In Re: Charge of Judicial Misconduc
62 F 3rd 320 (9th Cir 1995)

This is a fairly long complaint by an distinguised attorney, author and law scho lecturer. One of many complainants about Newsome's conduct to the Judicial Council of the Ninth Circuit.It appears there are prepared letters of excuses ready to go at the push of the print button.Newsome routinely violates the Cannons of Judicial Conduct. In the present complaint, as Newsome always in every case represents someone, one of his cronies -he has a list, and in the case at issue did not allow the attorney to argue his case on behalf of his client , and intrerupted this complainant **19 times, during two separate hearings "in a discourteous , abrupt, impatient , harsh and unfair manner" In his response to the complaint judge Newsome acknowledged that he had done so, but said he"knew what counsel was going to say" as if it mattered what he knew.**

The complaint also charges ex parte communications with another judge about complainant, and during a case in which this attorney represented another client, Newsome said apparently "judge so and so had the same problem with you. The Judicial Council of the Ninth Circuit makes excuses for Newsome, otherwise he should have been long gone from this position. He is an Article I contractually hired judge and needs another job. In covering up for Newsome the Judicial Council noted that the guide in a complaint is whether the complaint is prejudicial to the expeditious administration of the business of the courts. Randall Newsome's conduct is quite prejudicial to the business of the courts, and his cases clog the Appellate courts. The Judicial Council needs to be reminded that Mussolini made the trains run on time.